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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,466	09/30/2003	Jeyhan Karaoguz	15038US02	5576
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EXAMINER CHOWDHURY, SUMAIYA A				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/675,466

**Applicant(s)**

KARAOGUZ ET AL.

**Examiner**

SUMAIYA A. CHOWDHURY

**Art Unit**

2421

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 and 25-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-16 is/are allowed.
- 6) ☒ Claim(s) 17-23, 25-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments, see Remarks, filed 6/14/10, with respect to claims 123, and 25-35 have been fully considered and are persuasive. The Office Action of 3/2/10 has been withdrawn.

(a) Applicant argues the prior art does not teach "receiving at a user-designated electronic monitoring system". The Applicant goes on to argue that there is no teaching in Khusheim that the user even knows where any information permitted to be shared will be sent.

The Examiner agrees, and has withdrawn the previous rejection.

(b) Applicant argues that Herz does not teach that the user defines "at least one parameter" that indicates an allowable "type of use", and that the parameter is sent along with other information to a receiving party, and that the parameter received by the receiving party indicates an allowed type of use of the information accompanying the parameter.

Herz discloses selective presentation of media to a user determined by a monitoring system according to calculated statistics based on received information from users (abstract), where a user controls the ability of third parties to access the user information. Access to the user and the user's private data is only permitted in accordance with criteria that have been set by the user. When a third party such as an

advertiser requests user specific information, the request may be denied if the advertiser does not meet certain credentials. As a result, the user controls sharing. Further, the user can also indicate to release user specific information to only market researchers who have paid the user for the right to study the user's purchasing habits. Hence, the user indicates a type of allowable use of media consumption activity information. By allowing the user to indicate the privacy and sharing controls, the user provides at least one parameter to do so (col. 52 lines 33-67).

(c) Applicant argues that McGowan does not teach the automatic selection of media. Applicant goes on to argue the use of a "drag and drop methodology" is not equivalent to "automatic selection".

McGowan states a software program automatically selecting programs to be suggested for use in scheduling where a user via user interface may then automatically fill in the scheduling with selected suggested programs ([0034]-[0035]). It is noted that while McGowan teaches a user interacting with software programming used for automatic program selection based on statistics and scheduling. McGowan teaches Artificial Intelligence rules are implemented in selecting content. Fuzzy clustering techniques, and pattern recognition routines are implemented to isolate key trends and findings. In other words, content is automatically selected for consumption by the user. The subsequent step is scheduling the selected content, which is performed by a human operator using software. One scenario which can be construed from this

teaching is that by executing the AI software, programs X, Y, and Z are selected. The human operator determines that all of X, Y, and Z should be scheduled, and as a result uses the drag-and-drop software to schedule the X, Y, and Z programming. Hence, contrary to Applicant's statement, the additional media is automatically selected. Further, the claim as currently recited does not preclude this scenario in which a subset of content is initially selected using artificial intelligence, and a user subsequently selected content from the provided subset.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 17-23 and 25-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGowan et al. (US 2003/0018745) in view of Herz (US Pat No. 6,029,195).

**Regarding claim 17**, McGowan discloses "a system supporting communication of activity information to enable media programming, the system comprising:

a television display;

a storage for storing media, the storage having an associated network address;  
a user interface accessible via the television display, the user interface supporting the selection of media for consumption;"

set top box circuitry communicatively coupling the storage to a communication network to support consumption of the selected media; and" ([0044]-[0045], Fig. 5)

"server software that receives, via the communication network, a notification comprising at least one of the associated network address and information related to the media selected for consumption by the user," (Fig. 1 item 55 via back channel) "and responds by calculating at least one statistic automatically selecting," (Fig. 3 item 55) "identifying additional media for consumption by the user according to the at least one statistic," (Fig. 3 items 155-155a) "and scheduling availability of the selected media according to the at least one statistic" ([0033]-[0034], Fig. 3 items 160-160a).

But, McGowan does not explicitly state the setting of at least one user-definable parameter information that controls sharing and a type of allowable use of media consumption activity information.

In an analogous art, Herz discloses selective presentation of media to a user determined by a monitoring system according to calculated statistics based on received information from users (abstract), where a user controls the ability of third parties to access the user information. Access to the user and the user's private data is only permitted in accordance with criteria that have been set by the user. When a third party such as an advertiser requests user specific information, the request may be denied if

the advertiser does not meet certain credentials. As a result, the user controls sharing. Further, the user can also indicate to release user specific information to only market researchers who have paid the user for the right to study the user's purchasing habits. Hence, the user indicates a type of allowable use of media consumption activity information. By allowing the user to indicate the privacy and sharing controls, the user provides at least one parameter to do so (col. 52 lines 33-67).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify McGowan's invention to include the abovementioned limitation, as taught by Herz, for the advantage of providing the user with control of who receives the user information and how it is used for the purpose of ensuring a user desirable privacy level.

**Regarding claim 18**, McGowan and Herz disclose "the system of claim 17 wherein the media comprises one or more of audio, a still image, video, real time video, and/or data" ([0028], [0044]).

**Regarding claim 19**, McGowan and Herz disclose "the system of claim 17 wherein consumption comprises one or more of playing audio, displaying a still image, displaying video, and/or displaying data" ([0044]).

**Regarding claim 20**, McGowan and Herz disclose “the system of claim 17 wherein the information comprises one or more of an Internet protocol (IP) address, a media access control (MAC) address, an electronic serial number (ESN), a title, a subject, a time period, a genre, an artist, a media channel type, a mode, a language, and/or a user identifier” ([0026], Fig. 3 item 55).

**Regarding claim 21**, McGowan and Herz disclose “the system of claim 17 wherein the communication network comprises one or more of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, and/or a wireless infrastructure” ([0003], Figs. 5-6).

**Regarding claim 22**, McGowan and Herz disclose “the system of claim 17 wherein the information comprises one or more of a title, a subject, a time period, a genre, an artist, a media channel type, a mode, a language, and/or a user identifier” ([0026], Fig. 3 item 55).

**Regarding claim 23**, McGowan and Herz disclose “the method of claim 17 wherein the at least one statistic is a ranking of the relative frequency of consumption of media” (Fig. 3 item 55).



**Regarding claim 25**, McGowan and Herz disclose “the method of claim 17 wherein one or more of the calculating, identifying, scheduling, and/or updating is performed on a periodic basis” ([0022], [0026], [0047]).

**Regarding claim 26**, McGowan and Herz disclose “the system of claim 17 wherein the server software shares, with a third party, the at least one statistic” ([0027]).

**Claim 27** contains the limitations of claim 17 and is analyzed as previously discussed with respect to that claim.

**Regarding claim 28**, McGowan and Herz disclose “the system of claim 27 wherein the media comprises one or more of audio, a still image, video, real time video, and/or data” ([0028], [0044]).

**Regarding claim 29**, McGowan and Herz disclose “the system of claim 27 wherein consumption comprises one or more of playing audio, displaying a still image, displaying video, and/or displaying data” ([0044]).

**Regarding claim 30**, McGowan and Herz disclose “the system of claim 27 wherein the communication network comprises one or more of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet

infrastructure, an intranet infrastructure, a wired infrastructure, and/or a wireless infrastructure" ([0003], Figs. 5-6).

**Regarding claim 31**, McGowan and Herz disclose "the system of claim 27 wherein the information comprises one or more of a title, a subject, a time period, a genre, an artist, a media channel type, a mode, a language, and/or a user identifier" ([0026], Fig. 3 item 55).

**Regarding claim 32**, McGowan and Herz disclose "the system of claim 27 wherein the at least one statistic is a ranking of the relative frequency of consumption of media" (Fig. 3 item 55).

**Regarding claim 33**, McGowan and Herz disclose "the method of claim 27 wherein one or more of the calculating, identifying, scheduling, and/or updating is performed on a periodic basis" ([0022], [0026], [0047]).

**Regarding claim 34**, McGowan and Herz disclose "the system of claim 27 wherein the server software shares, with a third party, the at least one statistic" ([0027]).

**Regarding claim 35**, McGowan and Herz disclose "the system of claim 27 wherein the software comprises server software" ([0032]-[0034]).

***Allowable Subject Matter***

2. Claims 1-16 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

As for claim 1, the prior art reference to McGowan (2003/0018745) teaches receiving at a system, at least one notification comprising information related to a user request for content, calculating at least one statistic, using the information related to the request, automatically selecting additional media for consumption by the user according to the at least one statistic, scheduling the selected media according to the at least one statistic, for consumption by the user via the communication network, and updating a user interface with the scheduled selected media. The prior art to Herz (6029195) discloses transmitting a notification to a system, the notification comprising user-selected parameter information that indicates a type of allowable use of the at least one notification by the system. The prior art of record fails to disclose wherein a user designates the monitoring system which will receive user information.

As for claim 9, the prior art reference to McGowan (2003/0018745) teaches receiving at a system, at least one notification comprising information related to a user request for content, calculating at least one statistic, using the information related to the request, automatically selecting additional media for consumption by the user according to the at least one statistic, scheduling the selected media according to the at least one

statistic, for consumption by the user via the communication network, and communicating one or both of the selected media and/or the at least one statistic to a provider of the media, via the communication network. The prior art to Herz (6029195) discloses transmitting a notification to a system, the notification comprising user-selected parameter information that indicates a type of allowable use of the at least one notification by the system. The prior art of record fails to disclose wherein a user designates the monitoring system which will receive user information.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUMAIYA A. CHOWDHURY whose telephone number is (571)272-8567. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/  
Supervisory Patent Examiner, Art Unit 2421

/Sumaiya A Chowdhury/  
Examiner, Art Unit 2421